

FISCAL NOTE

Bill #: HB0160 **Title:** Reauthorize natural resource damage program
Primary Sponsor: Haines, D **Status:** Second Reading

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

Expenditures:

State Special - Natural Res. Damage Litigation

FY 2004

Difference

\$325,000

FY 2005

Difference

\$325,000

Revenue:

General Fund

(\$21,807)

(\$44,135)

State Special - Natural Res. Damage Litigation

\$325,000

\$325,000

Trust Fund – Coal Tax Permanent Trust

(\$325,000)

(\$325,000)

Net Impact on General Fund Balance:

(\$21,807)

(\$44,135)

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- | | |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact
<input type="checkbox"/> Included in the Executive Budget
<input type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Technical Concerns
<input checked="" type="checkbox"/> Significant Long-Term Impacts
<input type="checkbox"/> Needs to be included in HB 2 |
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Fiscal Analysis

ASSUMPTIONS:

1. This bill authorized the Board of Investments to loan up to \$650,000 from the coal severance tax permanent fund to the Department of Justice to pay for the natural resource damage litigation program. The loan would be repaid from funds recovered through the litigation program.
2. Loans of \$325,000 would be made July 1, 2003 and July 1, 2004. The interest rate earned by the trust fund is projected to be 6.71% in fiscal 2004 and 6.79% in fiscal 2005. This bill would reduce interest payments to the general fund by \$21,807 in fiscal 2004 (6.71% x \$325,000) and by \$44,135 in fiscal 2005 (6.79% x \$650,000).
3. The loan would be repaid after the end of fiscal 2005

Department of Justice

4. The bill provides funding, through a loan, in the nature of a line of credit, from the Coal Tax Severance Permanent Fund, of up to \$650,000 to continue the state's natural resource damage litigation against the Atlantic Richfield/British Petroleum Company (ARCO). Damages recovered by the state in the litigation will be used to reimburse the Coal Tax Fund for this loan, including lost interest on this money, to the extent consistent with state and federal law.
5. In FY 1999, the state settled a major portion of this lawsuit against ARCO and repaid approximately \$14.9 million, including \$3 million in interest, to the Coal Tax and general fund for all loans previously made to the Program for the years 1985 through 1997. The settlement also resulted in damages paid to the state, which were deposited into a \$130 million Restoration Fund for restoration of natural resources in the Upper Clark Fork River Basin.

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6. Final settlement or adjudication of the case during the 2005 biennium would likely result in the repayment of funds appropriated pursuant to HB 160; however, a specific repayment amount cannot be estimated with certainty because the case is still in litigation.
7. Section 1 contains a biennial appropriation. It is estimated that about 50% of the appropriation will be spent in each year of the biennium. Also, about 55% of the Program's budget is for contracted services (expert witness and other outside litigation costs).
8. The NRD program has been responsible for performing the necessary natural resource damage assessments and pursuing the lawsuit against ARCO since 1991. The Program has eight FTEs. When the State received the settlement money in the summer of 1999, it reorganized the Program into two components: litigation and restoration.
9. The litigation component is responsible for continuing to pursue the lawsuit. This component continues to require funding from legislatively appropriated sources.
10. The restoration component is responsible for overseeing the Restoration Fund and making recommendations to the Governor on how to spend the damages consistent with the legal requirement that the money be spent to restore natural resources in the Upper Clark Fork Basin. This component of the Program is completely funded off budget by the Restoration Fund.
11. The litigation component of the Program utilizes four of the Program's 8 FTEs. However, these FTEs also work in the restoration component of the Program.
12. For the 2003 biennium, a loan of up to \$990,000 to the Program for the litigation was authorized by the 2001 legislature. As of February 2003, the Program had spent only \$354,488 of this amount. Thus, it is possible that not all of the \$650,000 will be spent in the 2005 biennium and that the fiscal impact will be reduced from that estimated in this fiscal note—as has been the case in the present biennium.

FISCAL IMPACT:

	FY 2004 <u>Difference</u>	FY 2005 <u>Difference</u>
FTE	2.00	2.00

Expenditures:

Personal Services	\$96,000	\$96,000
Operating Expenses	\$229,000	\$229,000

Funding of Expenditures

State Special (02) DOJ Natural Res. Damage Litigation	\$325,000	\$325,000
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Revenues:

General Fund (01)	(\$21,807)	(\$44,135)
State Special (02) DOJ Natural Res. Damage Litigation	\$325,000	\$325,000
Trust Fund (09) Coal Tax Permanent Fund	(\$325,000)	(\$325,000)

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$21,807)	(\$44,135)
State Special (02) DOJ Natural Res. Damage Litigation	\$0	\$0
Trust Fund (09) Coal Tax Permanent Fund	(\$325,000)	(\$325,000)

LONG-RANGE IMPACTS:

Interest earnings for the general fund would be reduced by approximately \$44,000 each fiscal year until the loan is repaid.

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TECHNICAL NOTES:

1. The second to last sentence of Section 2 requires that to the extent possible the loan be made from the portion of the trust fund invested in the short-term investment pool (STIP). Because the Board of Investments is required to act as a prudent expert in investing the state trust funds, it invests no more of the trust funds in STIP than is necessary for the liquidity needs of the trust. Thus, none of the loan will be made from the portion of the fund invested in STIP.
2. The bill requires the Board of Investments and the Department of Justice to enter into a loan contract but does not specify what interest rate, if any, is to be paid on the loan.